



FAIR POLITICAL PRACTICES COMMISSION

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November 23, 2009

Dr. David Elder

REDACTED

**RE: Advisory Letter
FPPC No. 07/220; David Elder**

Dear Dr. Elder:

The Fair Political Practices Commission ("Commission") enforces the provisions of the Political Reform Act (the "Act")¹ found in Government Code Section 81000, and following. As you may be aware, the Commission was investigating whether you were in violation of the Act's conflict of interest provisions when serving as a contract Pharmacist-in-Charge with the California Department of Corrections and Rehabilitation.

We have determined that there is insufficient evidence to find you violated the Act. As a result, we are closing this case with this Advisory Letter.

You should be aware that the Act prohibits public officials, which includes certain contractors, from making, participating in making or influencing governmental decisions in which the official has a material financial interest. Specifically, Section 87100 of the Act states: "No public official at any level of state or local government shall make, participate in making, or in any way attempt to use his official position to influence a governmental decision in which he knows or has reason to know he has a financial interest."

To determine whether an individual has a disqualifying conflict of interests, the FPPC generally employs the following sequenced analysis: 1) was the individual a public official; 2) did the official make, participate in making, or use or attempt to use his official position to influence a governmental decision; 3) what are the public official's economic interests; 4) was the economic interest affected by the decision, either directly or indirectly; 5) was the economic interest materially affected by the decision; 6) was it reasonably foreseeable that the economic interest would be materially affected by the decision. (See Regulation 18700.)

¹The Political Reform Act is contained in Government Code sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in sections 18109 through 18997 of title 2 of the California Code of Regulations. All regulatory references are to title 2, division 6 of the California Code of Regulations, unless otherwise indicated.

Additionally, you should be aware that all public officials are required to file annual Statements of Economic Interest (SEIs), as required under Section 87302 of the Act. The scope of disclosure is provided for in the conflict of interest code adopted by the public official's agency, consistent with Section 87302 of the Act

The Commission publishes forms and manuals to facilitate compliance with the provisions of the Act and provides guidance regarding your obligations over the telephone and through written advice. If you need assistance, please call the Commission's Technical Assistance Division at 1-866-275-3772 or visit our website at www.fppc.ca.gov.

Sincerely,

REDACTED

✓ GARY S. WINUK, Chief
Enforcement Division